APPENDIX A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

No. CV-94-00328-EJL

UNITED STATES OF AMERICA, *et al.*,
Petitioner,

v.

IDAHO,
Defendant.

SUPPLEMENTARY RELEVANT DOCKET ENTRIES

No.	DATE	DESCRIPTION
131	7/09/1998	ORDER by Honorable Edward J. Lodge granting in part motion to strike listed pla's exhibits and conditional withdrawal of listed State exhibits [119-1] (See order for list of exhibits to be striken) (cc: all counsel) [Date Entered: 07/10/98, By: dkh]
129	2/06/1998	NOTICE OF MOTION DETERMINATION PROCEDURE- motion to strike listed pla's exhibits and conditional withdrawal of listed State exhibits [119-1] will be decided on written submissions (cc: all counsel) [Date Entered: 02/09/98, By: dkh]
128	1/22/1998	RESPONSE by Coeur d'Alene Tribe to motion to strike listed pla's exhibits and conditional withdrawal of listed State exhibits [119-1] [Date Entered: 01/26/98, By: dkh]

DATE	NO.	DESCRIPTION
127	1/22/1998	RESPONSE by pla USA to motion to strike listed pla's exhibits and conditional withdrawal of listed State exhibits [119-1] [Dated Entered: 01/23/98, By: dkh]
119	1/08/1998	MOTION by Idaho, State of to strike listed pla's exhibits and conditional withdrawal of listed State exhibits [Date Entered: 01/09/98, By: dkh]

APPENDIX B

STATUTES

THIRTY-SECOND CONGRESS. SESS II CH. 104 1853

Act of March 3, 1853
10 Stat 238

CHAP. CIV.—*An Act making Appropriations for the current and contingent Expenses of the Indian Department, and for fulfilling Treaty Stipulations with various Indian Tribes, for the year ending June thirtieth, one thousand eight hundred and fifty-four.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be and are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian Department, and fulfilling treaty stipulations with the various Indian tribes.

Negotiations with Indians west of Missouri and Iowa.

SEC. 2. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized, immediately after the passage of this act, to enter into negotiation with the Indian tribes west of the States of Missouri and Iowa for the purpose of securing the assent of said tribes to the settlement of the citizens of the United States upon the lands claimed by said Indians, and for the purpose of extinguishing the title of said Indian tribes in whole or in part to said lands and that, for the purpose of carrying into effect the provisions of this section, the sum of fifty thousand dollars is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated.

APPENDIX C

TRIAL EXHIBIT *2254*

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

Washington, June 25, 1902

The Honorable

The Secretary of the Interior.

Sir:

The office has the honor to invite your attention to the matter of the application of the St. Joe Boom Company, Limited, of Coeur d'Alene, Idaho, for the privilege of constructing and maintaining logging and sorting booms on the Coeur d'Alene Lake and in St. Joe River, within the limits of the Coeur d'Alene Indian reservation, Idaho.

In connection with this matter the attention of the Department is invited to two reports of this office dated March 7, 1902, upon the respective applications of C.R. Smith, et al., and of the St. Joe Boom Company for the privilege of constructing and maintaining log booms at the head of Coeur d'Alene Lake and in the St. Joe River, near its outlet, said applications and the maps accompanying the same having been referred to the Interior Department by the Secretary of War with the request for the views of this office thereon.

Under date of April 7, 1902, William T. S. Curtis, an attorney for the St. Joe Boom Company, residing in this city, addressed a letter to this office setting forth that the St. Joe Boom Company had in accordance with a conference by its representatives with officials of this Department and of the

War Department gone to considerable expense in making surveys and preparing maps etc., and had made formal application to the Secretary of War for the privilege indicated; that he was subsequently advised that other parties, viz., C.R. Smith, et al., had filed an application for similar privileges in direct conflict with the rights of the St. Joe Boom Company and their vested interests, and that the petitioners believe that the application of the other parties named was not made in good faith or in furtherance of any labors performed, as in the case of the St. Joe Boom Company.

Mr. Curtis accordingly protested against the granting of any boom privileges to other than the St. Joe Boom Company, and requested that all action on the subject be held in abeyance until said company should have had opportunity to present in more detailed form its reasons showing why its application should be granted to the exclusion of other applicants.

On April 29, 1902, Mr. Curtis addressed another letter to this office in which he requested that the matter of the application of the St. Joe Boom Company be referred to U.S. Indian Agent A.M. Anderson for further report as to the question of the advisability of granting such application, and whether or not, if granted, it would be detrimental to the rights of the Indians.

By letter of May 2, 1902, Hon. J.H. Davidson addressed a letter to this office stating that he had been authorized by C.R. Smith, et al., who had recently filed application for the erection and maintenance of a boom for sorting and rafting logs on Lake Coeur d'Alene and the St. Joe River, Idaho, to respectfully request that no further consideration be given to their application for such permission, but that favorable action, if possible, be taken upon the application of the St. Joe River Improvement Company (St. Joe Boom Company ?) for

the erection and maintenance of a boom at practically the same place as originally asked for by said Smith and others.

The office accordingly, under date of May 10, 1902, wrote to Agent Anderson, of the Colville Agency, enclosing said letter of Mr. Curtis, dated April, 29, 1902, and of Representative Davidson, dated May 2, 1902, and stated that Mr. Curtis had informally advised the office that the object of the St. Joe Boom Company in asking to have the matter referred to Agent Anderson was to save time,—the opposition on the part of the Indians being the one obstacle in the way, now that the Smith people had withdrawn their request for permission to construct a boom. The office stated that it had no objection to Agent Anderson taking up the matter with the St. Joe Company whenever they were prepared to submit their case.

He was requested to report to the office his conclusions and recommendations in the premises. In conclusion it was remarked that the office had taken the position that the proposed boom should not be authorized without the consent of the Indians and reasonable payment for the privilege if demanded by them, but that however the office could see no objection to his hearing what the interested parties had to say.

The office is in receipt of a report from Agent Anderson, dated the 13th instant, in which he states that he met the Indians in council at DeSmet Mission on June 2d and . . . fully explained to them the contents of the aforesaid office letter; that after much discussion of the subject, a committee consisting of six chiefs and leading men of the tribe was designated to accompany him to the St. Joe River for the purpose of making a thorough examination of the premises desired to be used by the company in connection with the proposed booms and sorting works; that it was given full power to act for and on behalf of the tribe and to make such terms with the company as would seem to be fair and for the best interests of all concerned, and that said committee

accordingly met him on the 9th of June, at Harrison, Idaho, from whence they proceeded by steamboat to the point at the head of the lake where the company's sorting works have been established and thence up the St. Joe River and Chatcolet Lake along the lines of the booms, as indicated on the company's map.

Agent Anderson further states that after its deliberations the committee decided that on condition that the boom company would provide for a 200 foot opening in the boom line at a point below the draw bridge across St. Joe River where the Indians are maintaining and operating a ferry boat, and on the further condition that the company would pay an annual rent of $500, the same to be expended for the benefit of the Indians in such manner as would best promote their interests, there would be no objection, so far as the Indians are concerned, to granting the privilege asked for. These conditions, the agent says, were assented to by the representatives of the St. Joe Boom Company who accompanied the Indians and were present at their deliberations. A letter accepting these terms by the company its attached to Agent Anderson's report.

The latter reports further that while in the town of Harrison, which is a large saw mill center, situated near the proposed booms, he took occasion to interview the mill owners for the purpose of ascertaining their views respecting the application of the St. Joe Boom Company, but that he found only one firm, that of Kroetch Bros., who were opposing the company on grounds which from their own personal statements made to him seemed to be entirely of a personal nature and should not, therefore, be given consideration.

The agent says that all admitted that the proposed boom and sorting works were an absolute necessity and that they could not get along without the same; that the St. Joe Boom Company is financially able to conduct the enterprise and that

with the exception of one firm named all joined in recommending that the privilege asked for by that company should he granted.

In conclusion Agent Anderson states that after having thoroughly investigated and examined into the matter, as directed, he finds that the proposed booms and sorting works will in no way interfere with any of the Indians residing upon the Coeur d'Alene reservation, and that the compensation of $500 per annum which the company agrees to pay for the privilege asked is more than ample, considering the fact that no damage will be sustained by the Indians. The works, he says, are a public necessity and will materially aid the saw mill interests of that section of the country.

He accordingly recommends that the privilege to conduct and maintain booms and sorting works, as indicated by their map showing the location of such booms and sorting works, be granted to the said St. Joe Boom Company.

Accompanying Agent Anderson's report are letters by the William Howard Land and Lumber Company, the Coeur d'Alene Lumber Company, the St. Joe Lumber Company, the Harrison Box and Lumber Company, and Fred Grant, manufacturer of lumber, to the general effect that the proposed boom and sorting works at the mouth of St. Joe River are a necessary improvement and that the St. Joe Boom Company, being a responsible concern, should be granted the privilege of conducting and maintaining such boom.

Agent Anderson also forwards with his report 12 statements in the forms of affidavits, by the following named parties: E.S. Crane, contractor of Harrison; Warren Flint, lumberman, of Harrison; Fred Grant, lumberman, of Harrison; D.R. Cameron, lumberman, of Harrison; J.C. White, Civil Engineer, of Coeur d'Alene; Armand Perrenaud, a merchant of Coeur d'Alene; Edward T. Whitney, a contractor of Clarksia; Joseph Cole, a steamboat man, of St.

Maries; F.A. Shallis., a merchant of Coeur d'Alene; Joseph T. Scott, an Editor and Publisher, of Coeur d'Alene, David F. Mason, Postmaster at Coeur d'Alene, and Joseph I. Shallis, a steamboat man.

The aforesaid statements are of the general effect and set forth that the proposed log booms and sorting works, as shown by the map of the company, will not interfere with the free and uninterrupted use by the Indians, or anyone else, of the ferry at St. Joe crossing, the plans providing for a 200 foot opening which will also afford ample room for the operation of such ferry; that the proposed boom will not interfere at all with the use by the Indians of the pasture lands on the opposite side of the river as the crossing will always be available and as the boom will not extend above the draw bridge of the Oregon Railroad and Navigation Company's railroad, thus leaving the whole river above the bridge unobstructed; that the boom will not have a tendency to fill up the St. Joe River at its mouth, actual soundings showing that the river is 30 feet deep at that point which is a greater depth than at any point between there and the draw bridge where the piling ends; that as the stream is a rapid one the logs will float on the surface and not go to the bottom of the river as would be the case if the current were strong, and that there will not therefore be a tendency for the river to fill up; that the proposed boom and sorting works are a public necessity for the proper handling of the large amount of logs, poles, etc., which must be floated down the St. Joe River, and that the works will do no injury whatever to the Indians.

After giving careful consideration to this entire subject and in view of the report and recommendation made and submitted by Agent Anderson, the office is of the opinion that so far as the interests of the Indians and of the Indian Department are concerned there is no objection to the construction and maintenance of logging booms and sorting

works by the St. Joe Boom Company, as indicated in their map made and filed.

Inasmuch, however, as the proposed piling in connection with the works referred to is to be placed in a navigable lake and river the office is of the opinion that the matter is primarily and essentially one for the War Department to arrange for and supervise. However, it is suggested that the arrangements made with said company should require it to so operate and maintain the boomerage as not at any time to congest the river at its outlet and cause the same to overflow the adjacent Indian lands.

It would also seem to be proper that the company should be required to remove all piling and obstructions placed by them in said river and lake when the further use of the boom works is no longer required and their use is discontinued. To this end it is suggested that the company should be required to give a proper bond to insure the proper performance of its obligations and also to secure the annual payment agreed to be made to the Indians of the Coeur d'Alene reservation.

In connection with this subject the office has to state that on the 18th instant Hon. T.L. Glenn left in this office a communication addressed to the Department of the Interior, dated June 12, 1902, by the Empire Mill Company (without autograph signature), also statements by W.L. Stone, Victor Le Doux and George W. Pierce, such statements being in the nature of protests against the granting of the privilege of constructing and maintaining log booms, as indicated, to the St. Joe Boom Company.

The Empire Mill Company in its said letter sets forth that in March last Agent Anderson advised them that the Department had decided to leave the question of constructing logging booms to the Coeur d'Alene Indians to decide; that terms were accordingly made with the Indians whereby it was agreed to pay them $500 annually for the privilege, the

agreement to be subject to ratification by the Department; that said company was invited by representative Indians to meet them and Agent Anderson at DeSmet Mission on June 2d, and that Mr. Anderson then and there denied that the Indians had anything to do or say in the matter and conducted himself in a manner unbecoming an officer of the Department.

Said Empire Mill Company protests against the granting of the privilege proposed to the St. Joe Boom Company and invites an investigation.

In connection with this protest attention is invited to the statement contained in Agent Anderson's report to the effect that he found but one firm opposed to the granting of a boom privilege to the St. Joe Boom Company, viz., the firm of Kroetch Bros., and in this connection attention is invited to the fact that two of the statements above referred to, those of W.L. Stone and Victor Le Doux, are witnessed by L.I. Kroetch. It is therefore suggested that the Empire Mill Company and Kroetch Bros, referred to by Agent Anderson, are probably one and the same concern.

If so, it is submitted that so far as the protest against the granting of a boom privilege to the St. Joe Boom Company is concerned the report of Agent Anderson effectually disposes of the matter.

The sentiment in favor of the St. Joe Boom Company is apparently almost overwhelming.

Respecting the alleged conduct of Agent Anderson towards the representatives of said Empire Mill Company at the Indian council, the office has to say that said agent has been called upon for a statement.

Agent Anderson's aforesaid report, together with all the affidavits and papers accompanying the same, and the papers filed by Hon. T.L. Glenn, are transmitted, herewith, with the recommendation that they be submitted to the Secretary of

War for such further action upon the application of the St. Joe Boom Company as may be deemed proper.

It is suggested that the War Department be requested to advise this Department of its action in the premises.

There is no application of said St. Joe Boom Company or by any other person or company for the boom privilege under consideration, now on file in this office, the applications of said St. Joe Boom Company and of C.R. Smith, et al., having been returned to the Department by office report of March 7,1902.

Very respectfully,

Your obedient servant,

/s/ Illegible
Acting Commissioner.

(J.R.W.)

P.